

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

10 JEANNINE DARLING,)
11 Plaintiff,) No. CV-09-5097-JPH
12 v.) ORDER GRANTING DEFENDANT'S
13 MICHAEL J. ASTRUE,) MOTION FOR SENTENCE SIX
14 Commissioner of Social) REMAND
Security,) (Ct. Rec. 9)
15 Defendant.)

On January 22, 2010, defendant filed a motion for remand of this case pursuant to sentence six of 42 U.S.C. § 405(g) (**Ct. Rec. 9**). Plaintiff does not oppose the motion (Ct. Recs. 9, 11). The parties have filed a consent to proceed before a magistrate judge (Ct. Rec. 7).

Defendant is correct that the cited provision allows the court, on motion of the Commissioner for good cause shown and before filing an answer, to remand the case to the Commissioner for further action by the Commissioner. In sentence six remands, the court retains jurisdiction over the action pending further administrative development of the record. The Commissioner asserts the claim file of the ALJ's July 10, 2008, decision cannot

1 be located (Ct. Rec. 19 at 2). As noted by the defendant, if the
2 file cannot be located within 90 days, the Appeals Council will
3 remand the case to the administrative law judge for a *de novo*
4 hearing (Ct. Rec. 19 at 2-3).

5 After considering the motion,

6 **IT IS ORDERED** that the defendant's motion for a sentence-six
7 remand (Ct. Rec. 9) is **GRANTED**. In the above-captioned case,
8 defendant will continue attempting to locate the ALJ's claim file
9 for the July 10, 2008, hearing.

10 **IT IS FURTHER ORDERED** that if the record cannot be located by
11 **April 26, 2010**, the Appeals Council remand the case to an
12 Administrative Law Judge to conduct a *de novo* hearing. The Court
13 will retain jurisdiction over the case.

14 **IT IS FURTHER ORDERED** that in the event the *de novo* hearing
15 is unfavorable to plaintiff, she may seek judicial review by
16 reinstating this case rather than by filing a new complaint.

17 This remand is pursuant to sentence six of 42 U.S.C. §
18 405(g), prior to defendant filing his answer and for good cause
19 shown.

20 **IT IS SO ORDERED.**

21 **DATED** this 25th day of January, 2010.

22 _____
23 *s/James P. Hutton*
24 JAMES P. HUTTON
25 UNITED STATES MAGISTRATE JUDGE
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